

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TENNESSEE
WESTERN DIVISION**

RAYMOND AYERS,)	
)	
Plaintiff,)	
)	No. 2:21-cv-02383-JTF-atc
)	
v.)	
)	
CITY OF MEMPHIS, ET AL.,)	
)	
Defendants.)	
)	

**ORDER VACATING DISMISSAL ORDER & STRIKE RECOMMENDATION (ECF
NO. 12)
AND REFERRING CASE TO THE MAGISTRATE JUDGE**

Plaintiff Raymond Ayers sued under 42 U.S.C. § 1983. (ECF No. 1.) On December 16, 2021, the Court dismissed Plaintiff’s claims without prejudice and gave him fourteen days to amend his complaint. (ECF No. 8.) On January 3, 2022, Plaintiff filed a motion for an extension of time to respond (*see* ECF No. 9) and the Court granted an extension of time until January 17, 2022. (ECF No. 10.) On January 20, 2022, the Court dismissed this case and recommended that the dismissal be treated as a strike because Plaintiff had failed to timely respond to the January 17, 2022 deadline. (ECF No. 11 (the “Dismissal Order”).) Plaintiff’s untimely response to the January 7 Order was docketed on January 21, 2022. (ECF No. 12.)

In his response, Ayers alleges that he “is not a prisoner [whose complaint] should be viewed under the prisoner statute [of the Prison Litigation Reform Act].” (*Id.* at PageID 26.) Plaintiff states that “he is not Mr. Raymond Shane Ayers [who] is a[n] [incarcerated] white male twenty

(20) years younger than Plaintiff.” (*Id.* at PageID 26.) In support, Plaintiff provides a copy of his driver’s license that displays his birthdate. (ECF No. 12-1 at PageID 28.)

Despite Plaintiff’s assertions about his current non-prisoner status, the record suggests that he was a prisoner at some correctional facility (likely the Shelby County Criminal Justice Center) at some time in the past. (*See* ECF No. 2 at PageID 3 (alleging that Plaintiff “appeared before the Tennessee State Court concerning an arrest affidavit ... [o]n or about June 8, 2020”); ECF No. 12-2 at PageID 30 (a copy of correspondence on Tennessee Department of Correction (“TDOC”) letterhead, which has a TDOC identification number associated with Plaintiff¹); ECF No. 2 at PageID 1 (suing, *inter alia*, Shelby County Sheriff’s Office, Sheriff Floyd Bonner, Jr., Chief Deputy Scott Wright, John/Jane Doe Criminal Informants, and various Memphis Police Department personnel as Defendants).) However, Plaintiff listed a residential address on his complaint. Still, Plaintiff’s allegations and the vague nature of his complaint obscure any information about his appearances in court, charges, arrest, and or confinement.² (*Id.* at PageID 3-4 (alleging “constitutional injury” from “the Illegal Search Practice or Policy ... in the operation of the [unspecified] Facilities”).)

District courts must screen prisoner complaints under the Prisoner Litigation Reform Act. 28 U.S.C. §§ 1915, *et seq.* Plaintiff disputes his status as a prisoner at the times relevant to the filing of his complaint and further asserts that he is not the “Raymond Shane Ayers” who is a convicted felon, now on TDOC probation. (ECF No. 12) Because Plaintiff does not appear to

¹ Plaintiff’s TDOC number, which was filed under seal and shall remain confidential, does not link to any former or current felony offenders on the TDOC website. (*See* ECF No. 12-2 at PageID 30; https://apps.tn.gov/foil/search_additional.jsp.)

² For example, the Shelby County Sheriff Office’s Jail & Inmate Information website does not display any records for the name “Raymond Ayers.” (*See* <https://www.shelby-sheriff.org/jail-inmate-information>.)

have been a prisoner at the time of filing his complaint, his complaint is not subject to screening under the PLRA. Therefore, the Court **VACATES** the Dismissal Order (ECF No. 11). The Clerk is **DIRECTED** to assign this case to a Magistrate Judge as a non-prisoner *pro se* case pursuant to Administrative Order 2013-05.

IT IS SO ORDERED, this 25th day of January, 2022.

s/John T. Fowlkes, Jr.
JOHN T. FOWLKES, JR.
UNITED STATES DISTRICT JUDGE